

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X  
4 MELISSA KAYE,

5 PLAINTIFF,

6 -against-

7 Case No.:

8 18-cv-12137

9 NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, ELIZABETH  
10 FORD, PATRICIA YANG, ABHISHEK JAIN and JONATHAN WANGEL  
11 (said names being fictitious, the persons intended being  
12 those who aided and abetted the unlawful conduct of the  
13 named Defendants),

14 DEFENDANTS.  
15 -----X

16 DATE: February 3, 2022

17 TIME: 1:32 P.M.

18 CONTINUED DEPOSITION of the Plaintiff, MELISSA KAYE,  
19 taken by the Defendant, pursuant to a Order and to the  
20 Federal Rules of Civil Procedure, held at the above date  
21 and time, via videoconference, before Lisa R. Anzelone, a  
22 Notary Public of the State of New York.  
23  
24  
25

1 A P P E A R A N C E S:

2  
3 LAW OFFICES OF SPECIAL HAGAN

Attorney for the Plaintiff

4 MELISSA KAYE

196-04 Hollis Avenue

5 Saint Albans, New York 11412

BY: SPECIAL HAGAN, ESQ.

6  
7 CORPORATION COUNSEL OF THE CITY OF NEW YORK

8 GEORGIA M. PESTANA, ESQ.

Attorneys for the Defendants

9 NEW YORK CITY HEALTH AND HOSPITALS

CORPORATION, ELIZABETH FORD, PATRICIA YANG,

10 ABHISHEK JAIN and JONATHAN WANGEL (said names being  
fictitious, the persons intended being those who  
11 aided and abetted the unlawful conduct of the named  
Defendants)

12 100 Church Street

New York, New York 10007

13 BY: DONNA CANFIELD, ESQ.

File #: 2019-032851

14 Control #: 22-0312

15  
16  
17 \* \* \*

F E D E R A L   S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

\* \* \* \*

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1 M E L I S S A K A Y E, called as a witness, having been  
2 first duly sworn by a Notary Public of the State of New  
3 York, was examined and testified as follows:

4 EXAMINATION BY

5 MS. CANFIELD:

6 Q. Please state your name for the record.

7 A. Melissa Kaye.

8 MS. CANFIELD: I just want to put on the  
9 record to make a brief statement that we have not  
10 yet received the transcript of Dr. Kaye's last  
11 deposition that was taken two weeks ago and I had  
12 a preliminary discussion with Ms. Hagan prior to  
13 going on the record and she has stated that she  
14 will forward to us a link that came from the  
15 reporting company.

16 MS. HAGAN: No, I did not. I told her I  
17 would give you what I had. You were insisting  
18 upon the link. I said I would give you the  
19 scanned copy of the deposition and that's what I  
20 will provide.

21 Let's move forward.

22 MS. CANFIELD: Defendants are just concerned  
23 that that might not be a certified original copy  
24 so if you could send us the link for the court  
25 reporting company that would be great.

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1 MS. HAGAN: You won't get a copy until I  
2 rectify whatever is happening with the court  
3 reporting company. I thought you already had it.  
4 It's clear today that you don't.

5 MS. CANFIELD: There would be no reason for  
6 us to have it since you were supposed to provide  
7 it to us.

8 MS. HAGAN: I would have given it to you if  
9 you would have asked for it.

10 MS. CANFIELD: It was Court Ordered as this  
11 deposition is Court Ordered for me to provide a  
12 copy today.

13 MS. HAGAN: We're here since 1:30.

14 MS. CANFIELD: Ms. Anzelone, we may be going  
15 on and off the record if there's a lot of  
16 colloquy so I just want to let you know because I  
17 do have one hour today and I don't want that hour  
18 actually to be gobbled up by colloquy.

19 Thank you.

20 Q. Dr. Kaye, how are you today?

21 A. (Indicating).

22 Q. I'm sorry. I can't hear you.

23 A. Good morning, Ms. Canfield.

24 Q. Good morning -- good afternoon here but it's good  
25 morning where you are. You're in Albuquerque, New Mexico;

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1 is that correct?

2 A. That's correct.

3 Q. If you can just keep your voice up so the court  
4 reporter can hear your responses that would be appreciated.

5 A. Okay.

6 Q. Dr. Kaye, do you know of any reason why you  
7 cannot answer my questions today truthfully?

8 A. No.

9 Q. Okay. Do you know of any reason why you may not  
10 understand the questions that I ask of you today?

11 A. If your question is clear I will do my best to  
12 answer it. If it's unclear I'll ask for clarification.

13 Q. All right. Terrific. That's fair enough.

14 In preparation for your deposition today --

15 A. I'm sorry. It's a snow day today so this is more  
16 complicated than I had thought.

17 Q. Right. Okay.

18 And did you do anything to prepare for your  
19 deposition today?

20 MS. HAGAN: Objection.

21 You can answer.

22 A. I -- I talked to with Ms. Hagan over Zoom.

23 Q. Did you speak to anyone else other than  
24 Ms. Hagan?

25 A. No.

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1 MS. HAGAN: Objection.

2 Q. Okay. I had just a couple of matters that I want  
3 to follow up with you based on your testimony in your last  
4 deposition. And one of those areas that I want to question  
5 you on is your testimony, and, again, I don't have the  
6 transcript here to read it to you, back to you but you did  
7 testify that after or upon the merger with Correctional  
8 Health Services which I will be referring to Correctional  
9 Health Services or CHS, you stated or testified that your  
10 administrative duties were taken away upon that merger.  
11 Can you tell me what administrative duties were taken away?

12 A. Well, it was a gradual decrease and elimination  
13 of any kind of administrative or operational authority or  
14 input from me. It -- I was no longer -- I was deprived  
15 access of the shared calendar repeatedly. Even my -- my  
16 staff had access to it. I'd have to go to my staff to --  
17 to put in days that I might be out or change things that I  
18 needed to change and I repeatedly was denied access to the  
19 shared calendar so I couldn't really be involved in any  
20 kind of administrative activities.

21 Q. Other than the shared calendar was there anything  
22 else that you no longer had access to that you had access  
23 to prior to the merger with CHS?

24 MS. HAGAN: Objection.

25 Could you allow Dr. Kaye to finish her

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1 answer?

2 MS. CANFIELD: She's finished. I'm moving  
3 on in the deposition.

4 A. Okay. I was denied access to Kronos and that's  
5 with a C, Kronos with a C electronic time keeping system.

6 Q. I think Kronos is actually spelled K-R-O-N-O-S.

7 A. Okay. All right. Then it's with a K. Sorry.  
8 My mistake.

9 And I was denied access to the i-Sight electronic  
10 system for logging and accessing the court orders and the  
11 reports.

12 Q. Anything else?

13 A. I was excluded from administrative decisions and  
14 activities and meetings.

15 Q. Such as what?

16 A. Well, an example was due to Dr. Yain entering my  
17 time incorrectly into Kronos I had a meeting with Jonathan  
18 Wangel in September 7th, I think it was, 2018. I -- I was  
19 down on Water Street with Jonathan Langhorn (phonetic), my  
20 union, about these timekeeping irregularities that had  
21 happened as soon as I started working for CHS. As soon as  
22 I complained to the EEOC and about the private practice  
23 policy --

24 Q. Okay. I'm going to stop you right there because  
25 your question is not responsive.

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1 MS. HAGAN: Objection.

2 It is responsive.

3 MS. CANFIELD: It's not responsive.

4 MS. HAGAN: You're interrupting her as she's  
5 trying to explain the adverse employment  
6 actions --

7 A. I was --

8 Q. Excuse me. No, we're moving on. This is very  
9 limited.

10 My question was what were your administrative  
11 duties that were taken away? We're not talking about your  
12 time. I'm going to stop you right there and ask a  
13 follow-up question --

14 MS. HAGAN: I'm going to --

15 MS. CANFIELD: Off the record, please.

16 (Whereupon, an off-the-record discussion was  
17 held, after which the proceedings continued as  
18 follows:)

19 Q. Dr. Kaye, you said -- you first testified that  
20 you were denied access to the shared calendar. Did you  
21 have access to the shared calendar prior to the merger with  
22 CHS?

23 MS. HAGAN: Objection as to form.

24 A. There was no shared calendar prior to the merger.

25 Q. Now, you also testified that you were deprived

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1 access to Kronos. Did you have access to Kronos prior to  
2 the merger with CHS?

3 MS. HAGAN: Objection to form.

4 A. There was no Kronos prior to the merger.

5 Q. And you also testified that you were deprived  
6 access to the i-Sight electronic I'm assuming case  
7 management system. Did you have access to i-Sight prior to  
8 the merger with CHS?

9 MS. HAGAN: Objection to form.

10 A. Well --

11 Q. It's a yes or no answer.

12 Did you have access to i-Sight prior to the  
13 merger to CHS?

14 MS. HAGAN: Objection.

15 She can't just answer that question yes or  
16 no.

17 Answer to the best of your ability or at  
18 least rephrase the question, Ms. Canfield.

19 Q. Excuse me. You can answer.

20 A. There was no i-Sight prior to the merger.

21 Q. Okay. Thank you.

22 So my question however was in your last  
23 deposition you said that your administrative duties were  
24 taken away upon the merger but you just testified that you  
25 didn't have these administrative duties before the merger;

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1 is that correct?

2 MS. HAGAN: Objection. Form.

3 A. No, that's not correct. I was not allowed to  
4 participate in activities like scheduling meetings,  
5 planning of operational procedures. I was taken -- those  
6 were taken away from me. I was replaced by Andrea Swenson  
7 and Clarence Muir and Abhishek Jain. I was not --

8 Q. Okay.

9 A. I was not at administrative operations or  
10 activities.

11 Q. I understand now. Thank you. I understand now.

12 So my question is: Were the other directors  
13 meaning the directors of the Manhattan court clinic, the  
14 Queens court clinic, the Brooklyn court clinic, did they  
15 not answer to Dr. Jain?

16 MS. HAGAN: Objection as to form.

17 A. Can you rephrase the question please?

18 MS. CANFIELD: Read the question back,  
19 please.

20 (Whereupon, the referred to question was  
21 read back by the Reporter.)

22 MS. HAGAN: And I objected to form and I  
23 still object to form.

24 A. I can't answer the question the way it's posed.

25 Q. So let me rephrase it.

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1           You said that Andrea Swenson was responsible for  
2           some administrative duties; is that correct?

3           MS. HAGAN: Objection as to form.

4           That's not what she testified to.

5           Q.       May I ask you this: Did Dr. Jain oversee all the  
6           court clinics?

7           MS. HAGAN: Objection.

8           A.       Yes.

9           Q.       Okay. Following the merger of CHS; is that  
10          correct?

11          MS. HAGAN: Objection to form.

12          A.       He started overseeing them before the merger  
13          actually officially started.

14          Q.       Okay. And Andrea Swenson, did she have a certain  
15          amount of administrative oversight of all the court clinics  
16          following the merger?

17          MS. HAGAN: Objection as to form.

18          Answer if you can.

19          A.       Andrea Swenson's role was to provide  
20          administrative services and work with the directors in  
21          administrative activities. She did not work with me. She  
22          worked with the other directors but she excluded me. She  
23          mocked me, she marginalized me and she undermined my work  
24          ethic performance, that did not happen to the other  
25          directors. I know for a fact. I talked with Dr. Winkler,

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1 she was very differential to Dr. Winkler and  
2 Dr. Monday -- man, who did she not impinge upon her  
3 (inaudible) --

4 Q. So no one -- so your administrative duties  
5 weren't taken away, they were just reorganized had when  
6 your clinic merged under CHS; isn't that correct?

7 MS. HAGAN: Objection to form. Objection to  
8 form.

9 You are testifying.

10 And answer the question if you can,  
11 Dr. Kaye.

12 A. That's a false statement. It's inaccurate. It  
13 mischaracterizes what I experienced. I was marginalized.  
14 My administrative authority was removed and I was  
15 marginalized in participating in administrative discussions  
16 and decisions.

17 Q. Okay.

18 A. To me it did not happen to the other directors.

19 Q. Okay. And you testified you base that on your  
20 conversations with Dr. Winkler; is that correct?

21 MS. HAGAN: Objection.

22 A. I base that --

23 MS. HAGAN: You can answer to the extent  
24 that you can.

25 A. I -- I -- it was evident from the way that I was

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1 spoken to, the way that I was mocked and teased and  
2 whenever I tried to engage in a professional dialogue about  
3 a serious administrative issue including Damian McClaren  
4 getting seen about his attorney, I then got written up by  
5 Andrea Swenson as a disruptive physician. Andrea Swenson  
6 was directly responsible for administrative board  
7 oversight. I had trouble -- I was being harassed with my  
8 credentials for three months. Contemporaneously with the  
9 Damian McClaren issue I asked her for her support and her  
10 involvement if she was the administrator. She sabotaged me  
11 credentially (sic). That didn't happen to other directors.

12 Q. Okay. I'm going to stop you there and move on.  
13 I think you've answered my question.

14 So the next topic is: You testified that you  
15 received a \$28,000 pay cut in 2019. What do you attribute  
16 that alleged pay cut to?

17 MS. HAGAN: Objection as to form and -- and  
18 it mischaracterizes her testimony.

19 You can answer.

20 A. I was supposed to have a salary with my longevity  
21 pay and my incremental pay increases to collective  
22 bargaining, my final salary was supposed to be 207. NYCERS  
23 confirmed that with me. I got a W-2 in 2018 that had a  
24 final salary of 173 or something like that and then it  
25 added another 20,000 for the retention bonus that all the

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1 doctors got.

2 Q. Let me stop you right there, Dr. Kaye. I'm  
3 talking about 2019, you just said 2018 --

4 MS. HAGAN: Objection as to form.

5 Q. Hold on.

6 MS. HAGAN: You have to allow her to finish.  
7 She never testified to the \$28,000 reduction in  
8 2019 you confirmed that in your letter and now  
9 you're trying to pose that same testimony on my  
10 client. She never said she got a reduction in  
11 2019. She said she --

12 MS. CANFIELD: Ms. Hagan, I believe --

13 MS. HAGAN: She said 2018 and 2019.

14 MS. CANFIELD: I believe you confirmed in  
15 your letter to Magistrate Judge --

16 MS. HAGAN: I did not confirm that at all.

17 MS. CANFIELD: You did.

18 MS. HAGAN: I did not confirm that at all.

19 A. Can I correct the record, please?

20 Q. Yes.

21 A. I got I got a W-2 in 2018 and 2019 that reflected  
22 an illegitimate pay decrease.

23 Q. Okay. And what do you attribute that  
24 illegitimate pay increase to?

25 A. Retaliation and the ongoing surreptitious,

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1 alteration to my time sheet by Dr. Jain and whoever he was  
2 working with, Dr. Yang, all of these people. Jonathan  
3 Wangel, as I was saying before, in that meeting I was  
4 excluded from when I was downtown meeting with Jonathan  
5 Wangel with my union in early September 2018 was about this  
6 issue. I had been having pay discrepancy issues and I had  
7 been dealing with it through my union to the point where I  
8 then realized my union is failing to address this properly  
9 because they were more interested in the codling an  
10 appeasing Mr. Wangel and Ms. Yang than they were in doing  
11 their job to defend me, a union member.

12 Q. So, Dr. Kaye, you said this was in September  
13 2018?

14 A. It started -- no.

15 Q. Let me be clear. You said the meeting that you  
16 had with your union was in September 2018; is that correct?

17 A. I noticed the pay decreases and changes as soon  
18 as I got access to Kronos in August 2018. Setup a meeting  
19 with Wangel?

20 Q. Okay. And how did you setup that meeting, did  
21 you do that by e-mail with your union?

22 A. I don't know. My union set it up with Wangel.  
23 He kept changing it but there is -- there are e-mails  
24 confirming that -- that we met with him that day.

25 Q. Okay. And what was the result of meeting with

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1 your union and Mr. Wangel?

2 A. My union raised the concerns about --

3 Q. And what was the response?

4 MS. HAGAN: Well, objection. You have to  
5 let her finish answering her question.

6 Q. Go ahead.

7 A. Mr. Wangel said he would look into it, into I  
8 think he called it the Axial system (phonetic) at central  
9 office and he would get certain paperwork for my union to  
10 review and that never happened.

11 Q. Okay. Did your union ever follow up with Mr.  
12 Wangel to make sure that he in fact followed up with the  
13 information?

14 A. I had been following up with my union about the  
15 pay discrepancies and the other issues contemporaneously  
16 until I finally just gave up and resigned.

17 Q. Okay. When you followed up with them did you do  
18 so by e-mail?

19 MS. HAGAN: Objection as to form.

20 A. I --

21 MS. HAGAN: You can answer.

22 A. I know I had a lot of phone calls with them so  
23 there were definitely phone calls.

24 Q. Okay. If you followed up with them by e-mail did  
25 you turn over all the e-mails in discovery?

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1 MS. HAGAN: Objection as to form.

2 You can answer if you can.

3 A. I -- well, I considered my union correspondence  
4 privileged because my union wasn't being sued so I was -- I  
5 wasn't going to -- I didn't divulge union communication.  
6 I -- I mean...

7 Q. Well, those communications are the subject of  
8 this litigation and they should have been turned over so  
9 I'm going to ask you to find those e-mails and turn them  
10 over to your attorney and I will write The Court to let  
11 them know that certain information has not been turned over  
12 in this litigation.

13 Additionally --

14 MS. HAGAN: I don't know if that's  
15 necessarily true. I think Dr. Kaye has provided  
16 all the e-mails that she has and if she was  
17 corresponding on H&H servers then you defendants  
18 would already have them, you would be able to  
19 produce them.

20 MS. CANFIELD: That is correct but --

21 MS. HAGAN: Yes.

22 MS. CANFIELD: -- as for the record --

23 MS. HAGAN: If she has them.

24 MS. CANFIELD: Excuse me. As --

25 MS. HAGAN: Plaintiff --

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1 MS. CANFIELD: Hold on. Hold on --

2 MS. HAGAN: Under her custody command and  
3 control. If Dr. Kaye no longer works there she  
4 may not have access to these e-mails. However,  
5 defendants do have access to the e-mails.

6 MS. CANFIELD: Okay.

7 Ms. Hagan, Ms. Hagan, please stop, please stop.

8 Q. Dr. Kaye, there is a number of e-mails that we  
9 see based on the evidence that you forwarded to your Gmail  
10 account. I want to know if you searched your Gmail account  
11 and turned over all e-mail correspondence that you had with  
12 your union concerning any of the issues in this litigation?

13 MS. HAGAN: Objection as to form.

14 Answer if you can.

15 A. That's a lot -- I mean, that's -- you're asking  
16 me a lot of questions.

17 Now, could you please rephrase that because  
18 it's --

19 Q. Yes. I will rephrase.

20 Did you communicate with your union using your  
21 Gmail account?

22 A. Yes.

23 MS. HAGAN: Objection.

24 Q. Okay. Did you turn over any correspondence with  
25 your union using your Gmail account concerning any of the

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1 issues in this litigation?

2 MS. HAGAN: Objection as to form.

3 A. When you say, "turn over", what do you mean?

4 Q. Provide to your attorney.

5 MS. HAGAN: Objection as to form.

6 A. If I -- if I did I may have, I don't know, I may  
7 have recapped phone calls and -- and typed that up in  
8 e-mails and sent that to her. I don't know.

9 Q. Okay.

10 A. I considered my representation by my union  
11 separate from my representation in this litigation.

12 Q. It's not. If there are the same issues that you  
13 discussed with your union the same issues that you're suing  
14 H&H over so to the extent that --

15 MS. HAGEN: I don't think --

16 MS. CANFIELD: I'm talking,

17 Ms. Hagan, I'm talking --

18 MS. HAGAN: I know you're talking.

19 MS. CANFIELD: Please do not interrupt me.

20 Ms. Court Reporter, please go off the record  
21 now.

22 (Whereupon, an off-the-record discussion was  
23 held, after which the proceedings continued as  
24 follows:)

25 MS. CANFIELD: Back on the record.

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1 Q. Dr. Kaye, we're going to shift topics.

2 You also testified that your staff was taken away  
3 from the Bronx court clinic. Can you tell me what staff  
4 was taken away from the Bronx court clinic?

5 A. Yes. Elizabeth Ford started phasing Barry  
6 Winkler out of the court clinic in February right after our  
7 January meeting.

8 Q. Anyone other than Dr. Winkler?

9 MS. HAGAN: Let her finish answering her  
10 question.

11 MS. CANFIELD: No.

12 Q. Anyone other than Dr. Winkler?

13 MS. HAGAN: Let the record reflect that Ms.  
14 Canfield is not allowing Dr. Kaye to finish her  
15 answers.

16 Q. Anyone other than Dr. Winkler?

17 A. When Dr. Winkler left the court services was  
18 non-operational.

19 Q. That's not responsive.

20 Anyone other than Dr. Winkler that was taken away  
21 from the Bronx court clinic?

22 MS. HAGAN: Objection.

23 A. He was taken away and not replaced.

24 Q. Okay. But was anyone else taken away?

25 MS. HAGAN: Objection.

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1           A.           He was the only person. There are only two  
2           evaluators. There was no one else to take away.

3           Q.           Thank you.

4                       In your last deposition you also testified that  
5           you filed a complaint with the New York State Inspector  
6           General's office and the Department of Justice in September  
7           2019. Did you provide a copy of those complaints to your  
8           attorney?

9                       MS. HAGAN: Objection as to form.

10          A.          Two questions. You're asking me -- you're asking  
11          me about the date. I'm not a hundred percent sure about  
12          the date. I did file a complaint and there was no copy to  
13          be had it was done online.

14          Q.          It was done online. Okay.

15                       And do you recall --

16          A.          DOJ -- I'm sorry. The DOJ complaint was done  
17          online.

18          Q.          Okay. And what about the New York State  
19          Inspector General's office, how did you file that  
20          complaint?

21          A.          Online.

22          Q.          So both were online?

23          A.          Yes.

24          Q.          Do you recall when you filled them out online?

25          A.          I don't recall the date.

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1 Q. Okay. When you completed your online complaint  
2 did you receive any e-mail confirming receipt of those  
3 complaints?

4 MS. HAGAN: Objection as to form.

5 A. I don't recall getting an e-mail confirmation  
6 from -- right after I sent it.

7 Q. Would you have any way of confirming the date  
8 that you made the DOJ online complaint?

9 MS. HAGAN: Objection as to form.

10 A. I don't have a way to confirm.

11 Q. Do you have any way to confirm the date that you  
12 filed the New York State Inspector General's complaint  
13 online?

14 A. No.

15 MS. HAGAN: Objection as to form.

16 Q. Did anyone ever follow up with you from the  
17 Department of Justice concerning your complaint that you  
18 filed online?

19 MS. HAGAN: Objection to form.

20 A. I never got a phone call, no.

21 Q. Did anyone send you an e-mail?

22 MS. HAGAN: Objection.

23 A. I believe they sent me an e-mail and said they  
24 were forwarding the complaint to the New York State IG or  
25 AG, something like that.

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1 Q. And the e-mail that you received from the  
2 Department of Justice, did you send that e-mail to your  
3 attorney?

4 A. I don't recall.

5 Q. Did you receive anything from the New York State  
6 Inspector General's office after you filed a complaint with  
7 them online?

8 A. I don't recall that they contacted me.

9 Q. Do you know if there was an investigation as a  
10 result of the DOJ complaint that you filed online?

11 MS. HAGAN: Objection to form.

12 A. I do not know.

13 Q. Do you know if there was any investigation as a  
14 result of the complaint you filed online with the New York  
15 State Inspector General's office?

16 MS. HAGAN: Objection as to form.

17 A. Could you repeat the question?

18 MS. CANFIELD: Can you read that back,  
19 please.

20 (Whereupon, the referred to question was  
21 read back by the Reporter.)

22 A. No, I don't.

23 Q. Okay.

24 Is there any way that Dr. Ford would have found  
25 out about any of -- either the DOJ or the New York State

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1 Inspector General's office complaints that you filed  
2 online?

3 MS. HAGAN: Objection.

4 She can't answer that. She doesn't have  
5 firsthand knowledge as to how Dr. Ford would have  
6 found out about those complaints.

7 You could answer.

8 A. I have no idea who could have found out or not.

9 Q. Okay.

10 Would that be the same for Dr. Jain, you would  
11 have no idea whether or not he knew about the complaints  
12 you filed online with the DOJ and the New York State  
13 Inspector General's office?

14 MS. HAGAN: Objection.

15 A. I wouldn't know.

16 Q. Okay. And how about Dr. Yang, do you know if she  
17 ever learned of the DOJ or the New York State Inspector  
18 General office's complaint that you filed online?

19 MS. HAGAN: Objection as to form.

20 A. I wouldn't be surprised if she did.

21 Q. Okay. And why would you not be surprised if she  
22 knew?

23 MS. HAGAN: Objection.

24 You can answer if you can.

25 A. Well, I think it's pretty clear from the -- the

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1 irregular funding sources that have empowered her.

2 It's pretty clear that these that the irregular  
3 funding sources of CHS have empowered her in a way that  
4 gives her absolute authority and control in -- in a manner  
5 that allows her to act with impunity and with legality and  
6 I think she has a lot of political clout behind her. So,  
7 yeah, if it was a politically embarrassing situation I -- I  
8 can't rule out that they didn't call her. I don't know.

9 Q. Okay.

10 And what about Mr. Wangel (phonetic), do you know  
11 if Mr. Wangel learned of the complaint that you filed with  
12 the DOJ and the complaint you filed with the New York State  
13 Inspector General's office online?

14 MS. HAGAN: Objection.

15 It's assuming that the employer already  
16 knows if the complaint is actually filed, that's  
17 the law,  
18 Ms. Canfield. I'm not sure how you would know  
19 whether or not my client would have firsthand  
20 knowledge of that, that's the law though. You're  
21 asking her to --

22 MS. CANFIELD: Excuse me. I want her to  
23 answer, please. No colloquy or we're a going off  
24 the record.

25 Q. Dr. Kaye?

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1 MS. HAGAN: Okay.

2 A. Please re-ask the question what's the question?

3 MS. CANFIELD: If you can read back my last  
4 question before counsel's colloquy.

5 (Whereupon, the referred to question was  
6 read back by the Reporter.)

7 A. I believe that he did know about the complaint  
8 with the conflict of interest board which mirrored this  
9 complaint with DOJ and IG. So, yes, I believe Dr. Wangel  
10 knew about the DOJ complaint and that it mirrored each  
11 other.

12 Q. Okay. So when you talk about the complaint with  
13 the conflict of interest board are you referring to the  
14 complaint you made regarding the private practice policy  
15 that you testified to at your last deposition?

16 MS. HAGAN: Objection as to form.

17 A. So I -- I'm referring to the complaint I made  
18 about the conflict of interest violations of the prior  
19 practice which I included in the DOJ and IG or AG, I'm not  
20 sure which one, report.

21 Q. Okay.

22 A. They overlap, they overlap.

23 Q. Okay.

24 But you don't know definitively whether or not  
25 Mr. Wangel was aware of the fact that you made these two

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1 online complaints; is that correct?

2 MS. HAGAN: Objection as to form. It's  
3 suggestive, the question.

4 MS. CANFIELD: It's not a proper objection.

5 Q. You can answer.

6 MS. HAGAN: Objection.

7 A. I complained to Dr. Jain about it and -- directly  
8 and I -- I'm certain that he would have reported it to  
9 Dr. -- Mr. Wangel.

10 Q. You complained to Dr. Jain about what?

11 A. About --

12 MS. HAGAN: Objection.

13 A. -- conflict of interest issues.

14 Q. Okay.

15 A. Product and the private practice policy and I  
16 complained to him about those in early July of 2018 and --

17 Q. Okay.

18 A. -- I complained about the complaint  
19 discrimination. And he told me that he was reporting me to  
20 Mr. Wangel. He indicated I was in trouble and he was  
21 reporting me to Mr. Wangel.

22 Q. Okay.

23 So, you also testified in your last deposition  
24 that you're unable to get a medical license in New Mexico.  
25 I want to know why are you unable to get a medical

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1 license -- let me back up.

2 Have you applied for a medical license in New  
3 Mexico?

4 MS. HAGAN: Objection as to form.

5 You can answer.

6 A. Yes.

7 Q. When?

8 MS. HAGAN: Objection.

9 A. When did I start?

10 Q. When did you apply for a medical license in New  
11 Mexico?

12 A. I started about a year ago, last February.

13 Q. And when --

14 A. A year ago.

15 Q. When you say you started, what is the process for  
16 applying for a medical license in another state  
17 specifically New Mexico?

18 MS. HAGAN: Objection as to form.

19 A. There's different layers of the application. You  
20 have to get all of your credentialing from your medical  
21 school and your residencies and all of that has to be  
22 compiled and sent to the licensing board, that's -- that  
23 would be step one. So I hired an outside third-party  
24 vendor, I think it's called FCSV to do that. I paid that  
25 fee. Once that was done and completed then I was eligible

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1 to proceed with the actual New Mexico license process  
2 internally that they had which involved filling out an  
3 application and paying a fee and then obtaining letters of  
4 recommendation and work verification forms and disclosing  
5 any disciplinary actions that had been taken against me.

6 Q. Okay.

7 A. That was --

8 Q. So --

9 A. -- phase 2. And so --

10 Q. Let me stop you right there.

11 So have you completed phase one?

12 MS. HAGAN: Objection.

13 I would like to note for the record that  
14 Dr. Kaye was interrupted yet again by  
15 Ms. Canfield when she tried to answer her  
16 question about the process.

17 MS. CANFIELD: Okay.

18 Q. Dr. Kaye, have you completed -- have you  
19 completed phase one?

20 A. Phase one where I paid the third-party vendor to  
21 get my credentialing from my med school and residencies,  
22 that was done, and that's what made me eligible to go to --  
23 or made -- prompted me to go to the second phase which was  
24 to fill out the paperwork for New Mexico and the  
25 application and disclosing disciplinary actions and getting

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1 recommendations and work verification forms.

2 Q. Now, did you get your recommendation forms?

3 MS. HAGAN: Objection as to form.

4 A. I asked for the -- yes, I sent the recommendation  
5 requests to the individuals I listed on my application.

6 Q. And did that individual provide the  
7 recommendation form as part of the application process if  
8 you know?

9 A. Three individuals.

10 MS. HAGAN: Objection.

11 A. I have to get it from three individuals.

12 Q. Okay. And have you gotten recommendations from  
13 three individuals?

14 A. Yes.

15 MS. HAGAN: Objection.

16 Q. And who were those three individuals?

17 MS. HAGAN: Objection.

18 Answer if you recall.

19 A. Karen Stevenson, an MD, and I think I might have  
20 actually asked four people. Hold on. Let me think. Alan  
21 Geller (phonetic) --

22 MS. HAGAN: If you don't --

23 MS. CANFIELD: Hold on. She's --

24 Q. Go ahead, Dr. Kaye.

25 A. Alan Geller, DO. I -- I think I might have

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1     gotten one from Ellie Sherman Berman Cohen or Cohen Berman,  
2     MD, and I think I might have gotten one from Dr. Donna  
3     Anthony, MD.

4           Q.       How do you spell her last name?

5           A.       Anthony, A-N --

6           Q.       Oh. Anthony?

7           A.       Yeah.

8           Q.       All right.

9                   And in terms of work verification did you secure  
10     all the documents you needed for your work verification?

11                   MS. HAGAN: Objection as to forge.

12          A.       No, I can't.

13          Q.       Why can't you?

14          A.       Because CHS engaged in ongoing retaliation  
15     against me including the manufactured disciplinary actions,  
16     they're not going to fill out a form in good faith if they  
17     fill it out at all.

18          Q.       Hold on.

19                   Have you asked CHS or H&H to fill out the work  
20     verification form?

21                   MS. HAGAN: Objection as to form.

22          A.       I think that that would be an enormous risk given  
23     the level of retaliation I experienced at the institution.  
24     They would be in position to fill it out without my knowing  
25     what they write, send it to the board and -- and perpetuate

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1 the false allegations of me being a disrupted physical and  
2 of me violating HIPAA by recording a patient. I disclosed  
3 those files malicious disciplinary actions to the medical  
4 board, I had to disclose those, I will have to disclose  
5 those for the rest of my career. It impedes and delays my  
6 ability to work, my ability to get a license and my ability  
7 to get a job because --

8 Q. Hold on, hold on. I'm going to ask you about  
9 that. I haven't asked you about that. I -- just for right  
10 now I want to know, yes or no, did you ask H&H or CHS to  
11 verify your employment?

12 MS. HAGAN: Objection as to form.

13 Q. Yes or no?

14 A. No. I --

15 Q. Thank you. Hold on. No --

16 A. No.

17 Q. Did you ask -- hold on.

18 A. You're asking me -- no, I don't ask them to  
19 verify my employment. They have to fill out a form and  
20 rate me on my behavior and my performance. Who is going to  
21 do that in good faith? Who is going to do that without a  
22 conflict of interest and a retaliatory amicus? No one.

23 Q. Okay. Let me ask you this: Did you reach out to  
24 anyone at H&H and let them know that you needed this work  
25 verification as part of your licensing process in New

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1 Mexico, did you reach out to anyone?

2 MS. HAGAN: Objection.

3 A. Who would I reach out to? Patsy Yang?

4 Q. Did you reach out to Dr. Badaracco (phonetic)?

5 A. It can't be from Bellevue, it has to be from CHS.  
6 You're -- Bellevue is not CHS. They're asking for my last  
7 employer which was CHS. I can't reach out to Dr. Badaracco  
8 or Dr. (inaudible). I have to reach out to people who have  
9 consistently retaliated against me in the most egregious  
10 illegal way that you can imagine.

11 Q. Okay.

12 A. So --

13 Q. I understand that but --

14 MS. HAGAN: And you're asking if she reached  
15 out during the middle of litigation.

16 MS. CANFIELD: That's fine. She can reach  
17 out in the middle of the litigation.

18 Q. Dr. Kaye, I want to ask this: CHS is part of  
19 Health and Hospitals Corporation, did you know that?

20 MS. HAGAN: Objection as to form.

21 A. Well, that's pretty condescending. Of course I  
22 knew that.

23 Q. Okay. So why couldn't reach out to Dr. Badaracco  
24 who is also part of the Health and Hospitals Corporation?

25 MS. HAGAN: Objection.

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1           A.           Because I have to follow the rules of the  
2           licensing board and they are -- the rules are to reach out  
3           to the agency that you were employed by within the last two  
4           years. I wasn't employed at Bellevue, I was employed by  
5           CHS. And I was told by Samantha Kent and William Soto that  
6           they were going to expunge the disciplinary action from my  
7           record, I was told that in a meeting with my union in  
8           August 2019, and that never happened. And I -- and --  
9           and -- and then I received legal counsel from Douglas  
10          Nadjari who I've mentioned -- this is the third time I've  
11          mentioned his name. I mentioned it in a settlement  
12          conference and I mentioned it in my redirect or my cross or  
13          whatever that was. And -- and I was told by an attorney  
14          who specializes in representing physicians in disciplinary  
15          and licensing issues that I have to declare those bogus  
16          allegations of being a disruptive physician and -- and  
17          being -- violating HIPAA for recording a forensic exam, I  
18          have to disclose those or I face potential sanctions on my  
19          New York license.

20                        So this is -- this has lasting impact on my  
21          ability to get licensed, my ability to get jobs. I have to  
22          disclose these bogus retaliatory actions that --

23          Q.           Okay.

24                        Let me ask you a question: Were you formally  
25          disciplined when you worked at CHS?

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1 MS. HAGAN: Objection as to form.

2 You can answer if you can.

3 A. I -- according to Dr. -- according to my  
4 attorney, my other attorney, I have attorneys for  
5 specialized things, Dr. -- Mr. Nadjari told me that they  
6 used the word pre-termination, they used the word  
7 discipline, you have to disclose.

8 Q. Okay. And did you receive a letter to file that  
9 said that you -- that -- anything about pre-termination or  
10 discipline?

11 MS. HAGAN: Objection as to form.

12 A. Katherine Pathos (phonetic) put that in her  
13 letter. Elizabeth Ford informed my union and I that I was  
14 facing a pre-termination meeting --

15 Q. Let me stop you.  
16 Are all the -- let me stop you.  
17 Is any of that in writing --

18 A. No.

19 Q. -- that Dr. Ford -- is there something in writing  
20 in your personnel file that says this is a pre-termination  
21 meeting?

22 MS. HAGAN: Objection.

23 A. There's --

24 Q. Yes or no, is there something in your file --

25 A. In my personnel file? They put it in e-mails --

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1     they put it in e-mails and where -- I don't know if  
2     Pathos's investigative report is in my personnel file or  
3     not because I was told my personnel file was lost and  
4     didn't exist anymore.

5           Q.       Okay.

6           A.       So I have no idea.

7                    When I went down to look at my personnel file I  
8     was told it didn't exist so --

9           Q.       Let me ask you this --

10          A.       This is the third -- I'm not going to risk losing  
11     my license in New York.

12          Q.       I understand. I have a question.

13                    When you had the conversation with Samantha Kent  
14     and William Soto in August 2019 you testified that you had  
15     that with your attorneys from doctor's counsel; is that  
16     correct?

17          A.       No, no, I did not testify to that.

18                    My union rep, I do not believe he was an  
19     attorney, I do not believe my union rep was an attorney.  
20     He never told me --

21          Q.       Okay.

22          A.       -- he was an attorney.

23          Q.       Okay.

24          A.       And I want to just think for a moment about the  
25     timing of this. I -- it was -- if I said 2019 I was wrong.

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1 It was 2018 because I -- it -- no. Wait. Let me let me  
2 just think for a minute.

3 I was served the disciplinary notices which Ford  
4 had told my union was pre-termination. I was served those  
5 at a meeting in July 2019, right, so it was August 2019  
6 that -- that my union and I went downtown to Water Street  
7 and met with Kent and Soto to look at my personnel file.

8 Q. Okay.

9 A. So it was in July 2019 I -- I got served the  
10 disciplinary action and then we went -- you know, we went  
11 and it took us a while to setup the meeting and then a  
12 month later I went down, met with them, and was told by  
13 Samantha Kent at that meeting that "department agrees to  
14 expunge these" if "nothing else happens". And I asked her  
15 who the department was and she said Dr. Ford and so there  
16 was an agreement at that meeting between us that -- "us"  
17 meaning everybody at the meeting including my union rep,  
18 May Santamaria (phonetic), that if nothing else happened by  
19 May of the following year --

20 Q. Which is May of 2020?

21 A. 2020, it would be expunged and then --

22 Q. Okay.

23 A. -- if I agreed to that, I agreed -- my union  
24 encouraged me not to write a rebuttal to the fabricated  
25 allegations because CHS agreed to expunge them because they

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1 were false and they were malicious and it was in their best  
2 interest to do that. However, it was never done and I  
3 never had a chance to write a rebuttal and then I --

4 Q. Hold on, hold on. Let me ask you: How do you  
5 know it was never expunged in May of 2020?

6 A. Because I was never contacted to confirm that  
7 and --

8 Q. Hold on, hold on. Did you contact anyone at H&H  
9 to ask them if it had been expunged from your records?

10 A. I was --

11 MS. HAGAN: Objection.

12 A. I can't -- I can't -- I -- I was told by  
13 Mr. Nadjari that they can't expunge it, you never know who  
14 has it and what they're going to do with it, you need to  
15 declare these so it was moot, it was moot. The damage is  
16 done.

17 Q. So what did Mr. Nadjari say about you practicing  
18 in New Mexico?

19 MS. HAGAN: Objection.

20 This is protected by attorney/client  
21 privilege.

22 MS. CANFIELD: It's not your privilege to  
23 assert, it's her privilege. If she wants to  
24 share, she can.

25 MS. HAGAN: I'm asserting it for her.

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1 MS. CANFIELD: You can't do that.

2 MS. HAGAN: It's attorney/client privilege,  
3 she's not going to disclose that.

4 MS. CANFIELD: She just disclosed --

5 MS. HAGAN: She communicated with her  
6 attorney, that's it.

7 MS. CANFIELD: She just disclosed what he  
8 said.

9 MS. HAGAN: Ms. Canfield, that's improper.

10 MS. CANFIELD: She can disclose if she --

11 MS. HAGAN: No, she doesn't wish to disclose  
12 a conversation that she had with an attorney she  
13 retained.

14 MS. CANFIELD: Then the attorney is going to  
15 have to be an expert witness because I want to  
16 know --

17 MS. HAGAN: I know what you want to know but  
18 she is not going to disclose --

19 MS. CANFIELD: I'm moving on --

20 A. I would like to answer --

21 MS. HAGAN: No, no, Dr. Kaye.

22 MS. CANFIELD: Yes, she can answer.

23 MS. HAGAN: She's not going to answer the  
24 question.

25 MS. CANFIELD: Are you being obstructionist?

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1 Please.

2 Q. Go ahead, Dr. Kaye.

3 A. Under the advice of my attorney, Mr. Nadjari, I  
4 disclosed the -- the retaliation disciplinary actions to  
5 the New Mexico Medical Board as I disclosed to all the  
6 headhunters who contacted me when asking me about  
7 disciplinary history as I will have to disclose for the  
8 rest of my life if I'm going to be in compliance with the  
9 law and not have trouble with my New York license. Cause  
10 if I fail to disclose that is more serious than the  
11 retaliation or as serious as the retaliatory disciplinary  
12 actions because the retaliatory discipline actions are  
13 disciplinary actions and I'm required to disclose that.

14 Q. Okay. I have two follow-up questions. One: The  
15 name of the headhunters, who are they?

16 A. I don't know the exact...

17 Q. Do you have the agency?

18 A. I would have to get back to you on that. I --  
19 I -- they call me. I -- I -- I talk to them, I tell them  
20 I'm interested, they ask me these questions, they say  
21 they're going to get back to me after they review it with  
22 their -- you know, with the agency looking for the doctor  
23 and it's happened three times that they haven't after I  
24 disclosed these.

25 Q. Okay. Another question: As part of this phase

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1 two of the application process when you're required to give  
2 recommendations, work verifications, any prior  
3 disciplinary, are you required to disclose any litigation  
4 that you've been involved in?

5 MS. HAGAN: Objection as to form.

6 A. You're absolutely required to disclose any time  
7 you've been sued for malpractice.

8 Q. Disclose malpractice?

9 A. Any time that you've been involved in a  
10 malpractice case, yep, you have to disclose that. And --  
11 and given that I was -- given that I was disciplined in a  
12 retaliatory manner in the context of this litigation it --  
13 it -- it's relevant to the disclosing of the -- of the  
14 physician -- disruptive physical allegation in the HIPAA  
15 violations allegation that Ford and Swenson made against  
16 me. I can't disclose that without explaining that it was  
17 retaliatory in response to me filing a lawsuit.

18 Q. Okay. So you disclosed your current civil  
19 lawsuit to the headhunters and to -- on this employment  
20 application; is that right?

21 MS. HAGAN: Objection.

22 A. That I was a victim of a retaliatory smear  
23 campaign which included false and fabricated disciplinary  
24 actions.

25 Q. Okay. And did you --

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1           A.           Why was I the target of this? It's because I  
2           asked for equal pay and I raised constitutional concerns  
3           about --

4           Q.           Yes, I'm familiar with your litigation.

5                       I have another question follow up. After you  
6           disclosed your litigation did you receive any response  
7           to -- from the medical board?

8                       MS. HAGAN: Objection.

9           A.           My application is incomplete.

10          Q.           Why is it incomplete?

11                       MS. HAGAN: Objection.

12          A.           Cause I cannot obtain a work verification form  
13          from an agency that has engaged in extreme and relentless  
14          retaliation against me for over two years.

15          Q.           But you haven't -- but you haven't asked them to  
16          verify your employment, correct?

17          A.           I did not.

18                       MS. HAGAN: Objection.

19          Q.           Why not?

20                       MS. HAGAN: Objection.

21                       Asked and answered.

22          Q.           I want to hear it. Why not?

23                       MS. HAGAN: Objection.

24                       Asked and answered.

25          A.           They won't fill it out in good faith because --

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1 Q. How do you know that. Hold on. How do you know  
2 that? How do you know that?

3 MS. HAGAN: Okay.

4 Asked and answered.

5 You asked her these questions already, Ms.  
6 Canfield, you've already asked her these  
7 questions.

8 A. I'll tell you how --

9 MS. CANFIELD: I heard your objection.

10 Q. Why not?

11 MS. HAGAN: Again, asked and answered.

12 MS. CANFIELD: Please,

13 Ms. Hagan.

14 MS. HAGAN: Well, you're asking --

15 MS. CANFIELD: Off the record.

16 (Whereupon, an off-the-record discussion was  
17 held, after which the proceedings continued as  
18 follows:)

19 MS. CANFIELD: Please read back my last  
20 question.

21 (Whereupon, the referred to question was  
22 read back by the Reporter.)

23 Q. Dr. Kaye, how do you know that H&H would not  
24 properly complete your work verification?

25 MS. HAGAN: Objection.

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1           A.           The best predictor of future behavior is past  
2 behavior. Their past behavior has been nothing but  
3 retaliatory, unlawful, vicious.

4           Q.           Okay. My next question: Have you reached out to  
5 anyone at H&H to determine whether or not they would  
6 properly complete your work verification?

7                       MS. HAGAN: Objection.

8                       That would be improper of Dr. Kaye to --

9                       MS. CANFIELD: Excuse me. It's a question.

10          Q.          Did you reach out? Whether it's improper or not  
11 is a matter of law. Did you reach out to --

12                      MS. HAGAN: It's improper as a matter of law  
13 so you're asking her to break the law?

14                      MS. CANFIELD: No. I'm saying -- the  
15 question is as to whether it is please stop  
16 interrupting.

17          Q.          Did you reach out to anyone, Dr. Kaye, about  
18 whether or not they would complete your work verification?

19          A.          I was told I'm not allowed to contact anyone at  
20 H&H during this litigation.

21          Q.          Who told you that?

22                      MS. HAGAN: Objection.

23                      Privileged.

24          Q.          Let me ask you this: Did your attorney that you  
25 hired in New Mexico for your credentialing, did they tell

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1 you not to reach out to H&H to determine whether or not  
2 they would complete your work verification properly?

3 MS. HAGAN: Objection.

4 That mischaracterizes her testimony. She  
5 didn't say she hired an attorney in New Mexico,  
6 she didn't.

7 Q. This David Nadjari, is he an attorney?

8 A. It's Doug.

9 Q. Doug?

10 A. D-O-U-G, Douglas, and Nadjari, I'll spell it for  
11 you, it's N-A-D-J-A-R-I.

12 Q. Right.

13 Is Mr. Nadjari an attorney?

14 A. Yes.

15 Q. Did Mr. Nadjari recommend that you not contact  
16 your former employer H&H to determine whether or not they  
17 would properly complete your work verification?

18 MS. HAGAN: Objection as to form and  
19 attorney/client privilege.

20 A. My conversations with  
21 Mr. Nadjari are -- are privileged and I did disclose to you  
22 in the spirit of cooperation that he told me that the  
23 physician -- the disruptive physician allegation is a  
24 serious allegation and I need to disclose it and I have.

25 Q. Okay. But --

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1 A. And I need to disclose it. I --

2 Q. But you're not answering my question. My  
3 question is did he recommend that you reach out to your  
4 former employer and let them know that you're applying for  
5 a medical license in New Mexico and request that they  
6 complete your work verification?

7 MS. HAGAN: I'm instructing Dr. Kaye not to  
8 answer that question because that's protected by  
9 the attorney/client privilege.

10 Please move on.

11 MS. CANFIELD: That's not your privilege to  
12 wave.

13 A. Dr. Kaye --

14 MS. HAGAN: No, it's my privilege to wave as  
15 her attorney, yes, it is.

16 MS. CANFIELD: No.

17 MS. HAGAN: I'm instructing her not to  
18 answer the question.

19 Q. Dr. Kaye --

20 MS. CANFIELD: Thank you. Thank you.

21 Q. Dr. Kaye?

22 MS. HAGAN: She's not going to answer that  
23 question.

24 A. I will answer that --

25 MS. HAGAN: Dr. Kaye, please don't answer

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1           that question. I'm your attorney. Please don't  
2           answer that question. I'm asserting the  
3           attorney/client privilege. Do not answer that  
4           question.

5           MS. CANFIELD: You cannot assert -- it's not  
6           your privilege, it's her privilege.

7           MS. HAGAN: It is my privilege to assert it,  
8           I'm her attorney.

9           MS. CANFIELD: It's not. Please go back to  
10          law school. It's her privilege.

11          MS. HAGAN: You go back to law school. I  
12          graduated before you. You could call The Court  
13          if you'd like.

14          MS. CANFIELD: She said --

15          MS. HAGAN: She's not going to answer that  
16          question, she's not. So if you'd like to call  
17          Judge Cott we can. She's not answering that  
18          question. Please move on.

19          MS. CANFIELD: Then she's precluded from  
20          testifying about this at trial. If that's what  
21          you want to do that's fine.

22          MS. HAGAN: No, you can't make -- you can't  
23          make that determination.

24          MS. CANFIELD: Then she's precluded from  
25          testifying to it at trial.

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1 MS. HAGAN: You can't preclude her from  
2 doing anything. You have to make the motion.  
3 What are you talking about she's precluded? File  
4 a motion. Go ahead.

5 MS. CANFIELD: Yes because --

6 MS. HAGAN: Go ahead. Keep going.

7 Q. Dr. Kaye, you can respond.

8 MS. HAGAN: No, she's not going to respond.  
9 Move on.

10 A. I was -- I --

11 MS. HAGAN: Don't answer the question,  
12 Dr. Kaye. I'm asserting the attorney/client  
13 privilege.

14 MS. CANFIELD: Off the record. Off the  
15 record.

16 (Whereupon, an off-the-record discussion was  
17 held, after which the proceedings continued as  
18 follows:)

19 (Whereupon, a short recess was taken.)

20 Q. Dr. Kaye, did you show the counseling memos to  
21 Dr. Nadjari?

22 MS. HAGAN: Objection.

23 Attorney/client privilege. She's not  
24 answering that question.

25 MS. CANFIELD: That's not privileged.

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1 Q. Did you show --

2 MS. HAGAN: It is privileged.

3 MS. CANFIELD: Excuse me.

4 Q. Did you show the counseling memos to Mr. Nadjari?

5 MS. HAGAN: I'm directing my client not to  
6 answer that question.

7 It's privileged.

8 MS. CANFIELD: It's not privileged.

9 MS. HAGAN: It is. Well, we've got to move  
10 on.

11 Q. Do you know if Mr. Nadjari reached out to H&H to  
12 determine if the counseling memos have been expunged?

13 MS. HAGAN: Objection.

14 It's privileged.

15 MS. CANFIELD: It's not privileged.

16 MS. HAGAN: I'm directing her not to answer  
17 the question.

18 Q. Did you reach out to H&H to determine whether the  
19 counseling memos were expunged?

20 MS. HAGAN: Objection as to form.

21 Q. You can answer, Dr. Kaye.

22 A. In the midst of litigation I was under the  
23 impression that I'm not supposed to communicate directly  
24 with anybody from H&H.

25 Q. Do you know whether or not

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1 Ms. Hagan reached out to H&H to determine whether the  
2 counseling memos were expunged?

3 MS. HAGAN: Objection.

4 Directing her no not to answer.

5 MS. CANFIELD: It's not privileged.

6 MS. HAGAN: I'm her attorney.

7 Privileged.

8 Q. So, Dr. Kaye, is it correct that no one reached  
9 out to H&H to determine whether or not the counseling memos  
10 were expunged so you don't know --

11 MS. HAGAN: Objection.

12 Q. -- if they have been expunged --

13 MS. CANFIELD: Hold on.

14 Q. They may have been expunged --

15 MS. HAGAN: You're testifying, counsel.  
16 You're testifying, counsel. You can't get the  
17 answer you want so now you're testifying to make  
18 a record.

19 MS. CANFIELD: Ms. Hagan, please.

20 MS. HAGAN: Objection to form.

21 MS. CANFIELD: Off the record.

22 (Whereupon, an off-the-record discussion was  
23 held, after which the proceedings continued as  
24 follows:)

25 Q. Dr. Kaye, do you have a response to any of the

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1 questions that I've asked you since we returned from our  
2 break?

3 A. Can you please just --

4 MS. HAGAN: Objection as to form.

5 Q. You can answer, Dr. Kaye.

6 A. Can we just please reiterate the question and  
7 then I will -- because I'm a little -- it was a while ago  
8 that you asked that question. Can you please just ask me  
9 the question again?

10 Q. Dr. Kaye, do you know if your attorney reached  
11 out to H&H about the work verification process?

12 MS. HAGAN: Objection.

13 Do not answer. That's attorney/client  
14 privilege. Do not -- I'm instructing her not to  
15 answer that question.

16 Q. You can answer. It's your privilege. You can  
17 wave it if you want --

18 MS. HAGAN: She cannot answer. She's been  
19 instructed by her attorney not to answer that  
20 question. You can't tell her to override her  
21 attorney.

22 Dr. Kaye, do not answer that question.

23 THE WITNESS: Well, I'd like to answer  
24 another question if I may.

25 Q. What would you like to answer? Please tell me.

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1 A. To your question.

2 Q. Yes. Please go.

3 MS. HAGAN: Objection.

4 No.

5 MS. CANFIELD: Please --

6 MS. HAGAN: No. You are not answering the  
7 question. She's not --

8 A. I would like to correct the record. I'm sorry.

9 Q. Yes, please correct the record.

10 A. Because you are referring to these as counseling  
11 notices. They were disciplinary and that word was used and  
12 they were -- the word termination or pre-termination and  
13 disciplinary were used so counseling mischaracterizes.

14 Q. Okay. I understand what you're saying now.  
15 So what are you referring to that -- what  
16 documents are you referring to when you say they're  
17 disciplinary, what specifically are you referring to?

18 A. The documents that have -- that Ms. Pathos  
19 generated --

20 Q. Okay.

21 A. -- and the two -- Dr. Ford had told my union was  
22 pre-termination, memos, warnings, whatever word you want to  
23 use, the content was -- was -- it was in the context of  
24 discipline and termination and pre-termination, everyone  
25 was using that language. It can't just be redefined as

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1 counseling so that people don't have to be responsible  
2 for --

3 Q. Dr. Kaye, what document -- Dr. Kaye, what  
4 document are you referring to? You said the Pathos memo.  
5 What document are you referring to from Dr. Ford?

6 A. She served me memos on July 1, 2019 in a meeting  
7 with my union and Clarence Muir that had very menacing  
8 language accused me of violating HIPAA for recording a  
9 forensic exam and accused me of being a disruptive  
10 physician for speaking to Swenson about her failure to  
11 contact an attorney, coming to exams and her failure to  
12 take my re-credentialing questions and obstructionism that  
13 I was getting from CHS seriously. Okay? So she wrote me  
14 up as a disruptive physician and she wrote me up accusing  
15 me of violating HIPAA. Okay?

16 Q. Were they --

17 A. They were disciplinary actions with me, they rise  
18 to the level of disciplinary, they weren't counseling. She  
19 didn't discuss -- she didn't come in there and have a  
20 conversation with me. When I tried to bring up the fact --  
21 after she had read the Apple recording policy she -- she  
22 didn't even -- she didn't even know about it and when I  
23 told her that I thought the disciplinary actions that she  
24 was serving me were retaliatory and she turned her head and  
25 starting having like physical convulsions with her body. I

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1 mean --

2 Q. Dr. Kaye, hold on.

3 Were those the only two memos that you're talking  
4 about that you believe are obstructing your ability to  
5 achieve a medical license in New Mexico, the Pathos memo  
6 and the July 1, 2019 memo from Dr. Ford, is there anything  
7 else?

8 MS. HAGAN: Objection to form.

9 A. There were two disciplinary actions that I was  
10 served by Dr. Ford and there was a third corporate  
11 compliance investigative report that was -- the fifth was  
12 biased, it was inaccurate. Ms. Pathos didn't even know  
13 that two evaluators had to sit in at 7:30, that's how  
14 clueless she was and she --

15 Q. Hold on --

16 A. -- that I -- that I --

17 Q. Dr. Ford, Dr. Ford, Dr. Ford --

18 A. Discipline, that's what she -- wrote.

19 MS. HAGAN: She's --

20 Q. Dr. Kaye --

21 A. I should be disciplined. That's game over. I  
22 have to disclose.

23 Q. Dr. Kaye, did Dr. Ford issue you two -- are you  
24 talking about two disciplinary counsel -- what you are  
25 characterizing disciplinary memos from Dr. Ford, one

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1 concerning the memos and one concerning Ms. Swenson?

2 MS. HAGAN: Objection to form.

3 A. The way that she wrote, she said -- the way it  
4 went -- she categorized my interactions and miscategorized,  
5 grossly miscategorized my interactions with  
6 Ms. Swenson, used the language consistent with writing up a  
7 physician as being disruptive.

8 Q. Okay.

9 A. It's a serious charge.

10 Q. Okay.

11 My question is did you show these to Dr. Nadjari?

12 MS. HAGAN: We're going to have to end this.

13 It's 3:00.

14 Q. Did you show these to Dr. Nadjari?

15 MS. HAGAN: Okay.

16 A. I -- I --

17 MS. HAGAN: Dr. Kaye, do not answer the  
18 question. Do not answer the question. It's  
19 attorney/client privilege.

20 MS. CANFIELD: She's answering the question.  
21 You're obstructing.

22 MS. HAGAN: She's not answering the  
23 question.

24 MS. CANFIELD: Whether or not she showed  
25 them --

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1 MS. HAGAN: It's 3:00 p.m. and it's over for  
2 us. We're going to have to --

3 MS. CANFIELD: No, it's not over. I will  
4 write to The Court requesting --

5 MS. HAGAN: Go ahead.

6 MS. CANFIELD: She's claiming she can't get  
7 her license but she's not testifying to what she  
8 showed her attorney.

9 MS. HAGAN: She did. Well, she's not --

10 MS. CANFIELD: She did not. You told her  
11 not to answer.

12 Q. I want to know did you show those counseling  
13 memos to your attorney?

14 MS. HAGAN: I'm sorry. This deposition has  
15 to end. It's 3:00.

16 MS. CANFIELD: No, it's not ending.

17 MS. HAGAN: Well, it is ending.

18 Goodbye.

19 MS. CANFIELD: You're welcome to go,  
20 Dr. Kaye can stay.

21 MS. HAGAN: Dr. Kaye is not going to stay.

22 A. Not without my attorney I cannot.

23 Q. Just answer the question. Did you send those to  
24 your attorney?

25 MS. HAGAN: She's not answering the question

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1 and she's not going to -- Dr. Kaye, please leave  
2 the deposition.

3 MS. CANFIELD: Ms. Hagan, you're improper.  
4 I just want to know if she showed them to her  
5 attorney.

6 MS. HAGAN: She's not going to answer that  
7 question.

8 A. I can answer that question.

9 Mr. Nadjari, I retained him, I paid him money to  
10 advise me on this matter. I am not going to speak about  
11 our private communications.

12 Q. So how can he give you advice if you haven't  
13 showed him the counseling memos?

14 MS. HAGAN: She didn't say that she didn't  
15 show him the counseling memos.

16 MS. CANFIELD: Well, she's not responding,  
17 it's an inference that she didn't tell him. I'm  
18 assuming she didn't show him.

19 MS. HAGAN: You're testifying and stop.

20 Dr. Kaye, please leave, please leave.

21 Q. I'm assuming you did not show him the counseling  
22 memos.

23 MS. HAGAN: Leave the deposition.

24 A. Because I am telling you he advised me on this  
25 matter.

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1 Q. Based on him --

2 MS. HAGAN: It's enough.

3 Dr. Kaye, please don't say anything else.

4 Q. Based on him reviewing the counseling memos?

5 MS. HAGAN: I'm asking you to end the  
6 deposition.

7 Q. Okay. So I -- so the assumption is that you did  
8 not --

9 MS. HAGAN: It's three o'clock.

10 Q. For purposes of your litigation you did not  
11 disclose so you can up your damages, that's what we're  
12 going to argue to the jury so you can go and -- but  
13 that's --

14 MS. HAGAN: You can argue, you can argue.

15 MS. CANFIELD: We're going to because you  
16 have not --

17 A. Let me just say a general statement.

18 Q. Yes.

19 A. I hired an attorney who specializes in defending  
20 doctors in disciplinary and licensure matters and I  
21 communicated with him. My communications are privileged  
22 and I think that it would be ridiculous to assume that I  
23 didn't communicate to him about what happened to me. I'll  
24 leave it at that.

25 Q. So you didn't -- so is it ridiculous for me to

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1       assume that you did not show him the documents?

2                   MS. HAGAN: We're ending this deposition.

3       Q.       So you did not show him the documents?

4                   MS. HAGAN: No, she did not testify to that.

5                   Dr. Kaye --

6       Q.       Then you did show him the documents?

7                   MS. HAGAN: Dr. Kaye, I have to leave.

8       A.       You're inferring.

9       Q.       So I'll assume that you did not show the  
10       documents.

11                   MS. HAGAN: Leave right now.

12       Q.       So he was not able to give you proper legal  
13       advice?

14                   MS. HAGAN: She's not testifying to that.  
15       She's not testifying to that at all, counsel.  
16       You're bullying this witness.

17                   MS. CANFIELD: So the jury will just know  
18       that you didn't fully disclose what happened.

19                   MS. HAGAN: That's not the case. You're  
20       testifying --

21                   MS. CANFIELD: No but you you're directing  
22       your witness not to testify.

23                   MS. HAGAN: I'm directing my witness not to  
24       break the attorney/client privilege.

25       Q.       So -- okay. So you did not give him the

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1 documents for him to make an intelligent decision?

2 MS. HAGAN: No, she didn't say that at all.

3 MS. CANFIELD: Because you're telling her  
4 not to testify.

5 MS. HAGAN: This is attorney/client  
6 privilege.

7 We're going to end this.

8 Dr. Kaye, I think --

9 MS. CANFIELD: We will move to preclude --

10 MS. HAGAN: It's 3:03, let's -- come on.

11 MS. CANFIELD: We will move to preclude any  
12 testimony --

13 MS. HAGAN: You can move.

14 MS. CANFIELD: -- on Dr. Kaye's inability to  
15 get her medical licensure because she has not  
16 fully disclosed --

17 MS. HAGAN: She is not --

18 MS. CANFIELD: She testified that she  
19 mislead her attorney in legal advice --

20 A. I didn't say --

21 MS. HAGAN: She testified that --

22 THE WITNESS: I told her my --

23 Q. What did you tell him then? Did you show him the  
24 documents?

25 MS. HAGAN: You can't keep a straight face,

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1                   you can't even keep a straight face. You're --  
2                   it's ridiculous. Are you kidding me?

3                   Dr. Kaye, let's go, let's go.

4           A.       At least I get to end with a laugh.

5                   MS. CANFIELD: I'll take it up with The  
6                   Court because you refuse to tell me.

7                   MS. HAGAN: I have to go. I have another  
8                   call. I have to go clearly. Let's go.

9                   MS. CANFIELD: Okay.  
10                  I'll bring it to The Court.

11                  Thank you.

12                  It's a 24 hour turn around.

13                  Ms. Hagan, I need your transcript. You are  
14                  ordered and it's been two weeks, you have not  
15                  produced it and 24 hour turnaround for this one,  
16                  Ms. Anzelone.

17                  (Whereupon, at 3:04 P.M., the Examination of  
18                  this witness was concluded.)

19

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21                               °                   °                   °                   °

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D E C L A R A T I O N

I hereby certify that having been first duly sworn to testify to the truth, I gave the above testimony.

I FURTHER CERTIFY that the foregoing transcript is a true and correct transcript of the testimony given by me at the time and place specified hereinbefore.

---

MELISSA KAYE

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

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NOTARY PUBLIC

MELISSA KAYE

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E X H I B I T S

(None)

I N D E X

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I N F O R M A T I O N   A N D / O R   D O C U M E N T S	P A G E
(None)	

Q U E S T I O N S   M A R K E D   F O R   R U L I N G S

P A G E   L I N E	Q U E S T I O N
(None)	

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C E R T I F I C A T E

STATE OF NEW YORK )

: SS.:

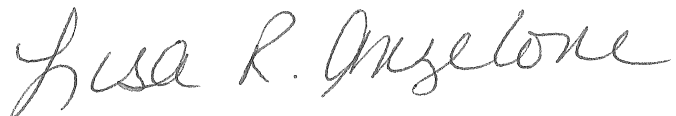
COUNTY OF NASSAU )

I, LISA R. ANZELONE, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose examination is hereinbefore set forth was duly sworn and that such examination is a true record of the testimony given by that witness.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of February 2022.



LISA R. ANZELONE

CASE NAME: Kaye, Melissa v. New York City Health & Hospital Corp.  
DATE OF DEPOSITION: 2/3/2022  
WITNESSES' NAME: Melissa Kaye

[illegible]

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

MY COMMISSION EXPIRES:

[&amp; - answer]

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[answer - canfield]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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